

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services)	CC Docket No. 98-67
And Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	
Disabilities)	

**COMMENTS OF
TELECOMMUNICATIONS FOR THE DEAF, INC.**

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Telecommunications for the Deaf, Inc., through undersigned counsel and in accordance with the Commission's Public Notice,¹ hereby submits its comments on the payment formula and fund size estimate for the interstate Telecommunications Relay Service ("TRS") fund for the period from July 2004 through June 2005. Deaf and Hard of Hearing Consumer Advocacy Network ("DHHCAN"), National Association of the Deaf ("NAD"), and The Association for Late Deafened Adults ("ALDA") (collectively, the "Supporting Parties") join in and support TDI's comments in this proceeding.

TDI and the Supporting Parties are concerned that the current and proposed rate basis for Video Relay Service ("VRS") will lead to yet further reductions in the availability and quality of VRS, and thereby reductions in access to what is now known as a near-functional equivalent telecommunications service. As discussed herein, the proposed rate is even lower than the current rate, which has already resulted in service that is of a lower quality and is less available than the level of service provided prior to June of 2003. TDI and the Supporting Parties do not want to see the benefits of VRS further hindered at a time when consumers and businesses were

¹ *National Exchange Carrier Association (NECA) Submits the Payment Formula and Fund Size Estimate for Interstate Telecommunications Relay Services (TRS) Fund for July 2004 through June 2005*, CC Docket 98-67, DA 04-1258, released May 4, 2004.

just starting to experience those benefits. In order to continue the Commission's efforts to expand the availability of VRS to the TRS user community, and thus enable such users to come much closer to functional equivalency, the Commission must ensure a balance between the VRS compensation rate and the reinstatement of past VRS quality and availability, as well as expansion of VRS quality and availability.

TDI and the Supporting Parties urge the Commission to focus on the needs of those consumers and businesses that will be directly affected by the Commission's decision in this proceeding.

I. INTRODUCTION AND SUMMARY

TDI is a national advocacy organization that seeks to promote equal access issues in telecommunications and media for the 28 million Americans who are deaf, hard-of-hearing, late-deafened, or deaf-blind so that they may attain the opportunities and benefits of the telecommunications revolution to which they are entitled.² TDI believes that only by ensuring equal access for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

² TDI educates and encourages consumer involvement regarding legal rights to telecommunications accessibility; provides technical assistance and consultation to industry, associations, and individuals; encourages accessible applications of existing and emerging telecommunications and media technologies in all sectors of the community; advises on and promotes the uniformity of standards for telecommunications technologies; works in collaboration with other disability organizations, government, industry, and academia; develops and advocates national policies that support accessibility issues; and publishes "The GA-SK" quarterly news magazine and the annual *Blue Book, TDI National Directory & Resource Guide for Equal Access in Telecommunications and Media for People Who Are Deaf, Late-Deafened, Hard-of-Hearing or Deaf-Blind*.

DHHCAN, established in 1993, serves as the national coalition of organizations³ representing the interests of deaf and/or hard of hearing citizens in public policy and legislative issues relating to rights, quality of life, equal access, and self-representation. DHHCAN also provides a forum for proactive discussion on issues of importance and movement toward universal, barrier-free access with emphasis on quality, certification, and standards.

Established in 1880, the NAD is the nation's oldest and largest constituency organization safeguarding the accessibility and civil rights of 28 million deaf, hard of hearing, late deafened, and deaf-blind Americans in a variety of areas, including education, employment, health care, and telecommunications. A private, non-profit organization, the NAD is a dynamic federation of state associations and organizational affiliates and direct members. Primary areas of focus include grassroots advocacy and empowerment, captioned media, deafness-related information and publications, legal rights technical assistance, policy development and research, and youth leadership development. The NAD works closely with deafness related national organizations and is a member of several coalitions representing the interests of deaf, hard of hearing, late deafened, and deaf-blind individuals.

Formed in Chicago, Illinois in 1987, ALDA works collaboratively with other organizations around the world serving the needs of late-deafened people. Through its chapters

³ The member organizations of DHHCAN include the American Association of the Deaf-Blind (AADB), the American Deafness and Rehabilitation Association (ADARA), the Association of Late-Deafened Adults (ALDA), the American Society for Deaf Children (ASDC), the Conference of Educational Administrators of Schools and Programs for the Deaf (CEASD), Communication Service for the Deaf (CSD), Deaf Seniors of America (DSA), Gallaudet University, Gallaudet University Alumni Association (GUAA), Jewish Deaf Congress (JDC), National Association of the Deaf (NAD), National Black Deaf Advocates (NBDA), National Catholic Office of the Deaf (NCOD), Registry of Interpreters for the Deaf (RID), Telecommunications for the Deaf Inc.(TDI), USA Deaf Sports Federation (USADSF), and The Caption Center/WGBH.

and groups around the country, ALDA promotes public and private programs designed to alleviate the problems of late-deafness and for reintegrating late-deafened adults into all aspects of society. ALDA also provides educational information concerning issues affecting late-deafened adults, as well as advocacy on behalf of, and support for, late-deafened adults and their families and friends.

A critical aspect of equal access to telecommunications is the ability to utilize new and innovative technologies that better enable individuals with hearing disabilities to communicate with family, friends, employers, co-workers, and others. VRS, like any other TRS service feature, is equally important to the rest of the general mainstream to use to contact those with hearing disabilities. It is an equal access service that can benefit any individual or entity in America. VRS makes relay services closer to being functionally equivalent to conventional telephone services for individuals who use sign language. It is a relay service for sign language users that provides the hearing party with native spoken English interpretation, whereas this might not be entirely possible using other TRS services. It enables these individuals and groups to take advantage of the opportunities provided by such functional equivalency. Unlike traditional TTY TRS and Internet Protocol TRS, VRS provides individuals with hearing disabilities, and their contacts the ability to communicate in near real-time with greater accuracy. VRS enables these individuals to take advantage of highly-qualified interpreters with experience in unique, specialized or technical fields.

Relay services, including in particular VRS, must be readily available on-demand and must provide the ability for individuals with hearing disabilities, and their contacts to communicate spontaneously and accurately. In addition, it is important to ensure that VRS providers are given the flexibility and the ability to develop new products and technologies to

better “bridge the gap between the communication-impaired telephone user and the community at large.”⁴ Reasonable VRS provider compensation rates are essential to reinstate the continued viability of this critical service.

Since last year’s rate reduction for VRS, consumers have seen a severe reduction in the quality and availability of service. These reductions have already had detrimental effects on the consumers and businesses that rely on this service. In particular, the reductions have curtailed the ability of individuals with hearing disabilities and their contacts to take advantage of the opportunities and benefits afforded by equal access to the telecommunications revolution.

Unfortunately, in its *2003 Reimbursement Order*, the Consumer & Governmental Affairs Bureau (“Bureau”) did not perform a cost-benefit analysis to determine whether its reduction of the reimbursement rate would have an offsetting detrimental effect on VRS and thus, the users of that service. By considering the costs and not the benefits associated with providing the service, the Bureau was unable to consider the detrimental effects that we have already seen as a result of the reduction of the reimbursement rate. Moreover, had the Bureau incorporated in its analysis the benefits as part of its full review and decision, it would have considered the savings produced with entitlement programs when some TRS users are able to enter or reenter the workforce. These benefits include such individuals becoming taxpayers and effectively arresting their dependence on entitlement programs, thereby decreasing government expenses and increasing the revenue in federal, state, and local taxes (both income and social security) the governments receive from those who obtain full-time jobs. Given the significant advantages provided to the TRS user community by VRS, and the dramatic impact reduction in availability and quality of

⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, DA 03-2111, ¶ 2 (rel. June 30, 2003) (“*2003 Reimbursement Order*”).

VRS produces, the interests of those consumers and businesses should have an important, if not a determining role, in the establishment of the compensation rate.

II. COMMENTS

A. VRS Offers Persons with Disabilities and their Contacts Unprecedented Opportunities and Benefits.

VRS enables persons with hearing disabilities, and their contacts to retain the quality of real-time, accurate communication not possible with traditional relay services or TTY. Without VRS, these individuals and businesses are hampered by the delays and inaccuracies inherent with TTY and Internet Protocol TRS, which rely upon an operator to voice the typewritten messages of a person with a hearing disability and type the responses of the person on the other end of the call. The need to manually type conversations creates lags and delays in flow of conversation and impedes the ability of the TRS user and his or her contact to communicate real-time. These delays, as well as the unfamiliarity of the general mainstream with these services make it difficult for persons with hearing disabilities to communicate effectively with those in the general mainstream. Even if a person from the general mainstream has heard of these services, they may not be familiar with how the services work. Therefore, often there may be surprise or uncertainty encountered when receiving calls from a person using this equipment. Indeed, as the Commission noted, many people who are not familiar with or do not understand TRS hang up on callers utilizing such services.⁵

VRS avoids all of these problems by enabling persons with hearing disabilities and their contacts to communicate in near real-time. Because a VRS user is able to see and be seen by an interpreter fluent in sign language, the user is able to see what the speaking party is saying at the

⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 00-56, at ¶ 104 (rel. March 6, 2000).

same time that person is speaking and immediately respond. In addition, when the VRS user initiates communication or responds to the speaking party, the sign language-fluent interpreter is able to begin translating for the speaking person immediately rather than asynchronously such as waiting for a “GA” or the message to be completed. As a result, there is minimal to no delay and much greater accuracy in communication and conveyance of language nuances. In fact, to both parties on the call, it appears as if they are conversing with another person in their native language.

Moreover, because VRS provides TRS users with experiences that are much closer to the functional equivalent of voice telephone service to the general mainstream, VRS gives these individuals the opportunity to better communicate with friends, family, employers, prospective clients and public health and safety organizations. The hundreds of comments filed in this docket in recent days represents only a fraction of the many people who are currently using VRS to improve the quality of their lives.

B. The Reduction in VRS Compensation Rates have already had Substantial Detrimental Effects on the Quality and Availability of Service, and thus will Harm the Consumers that Rely on VRS.

Prior to last year’s rate reductions, consumers expected VRS services to be available on demand, in much the same way that voice telephone consumers expect to be able to pick up the telephone and be able to communicate instantly with other voice telephone consumers. In order to achieve close to functional equivalency, VRS providers in the past attempted to have interpreters available for every call within 3 seconds of receiving the call.⁶ In addition, consumers expected that the interpreter they reached would be able to handle a variety of calls with a variety of different purposes and callers with a variety of different needs.

⁶ See, e.g., CSD of Texas Open Letter to Consumer Leaders, dated July 17, 2003, at 1 (“CSD Letter”).

Unfortunately, consumers of VRS have experienced a significant reduction in service quality and availability in response to last year's slashing of the compensation rate. VRS providers have reduced their hours of operation,⁷ and consumers often experience answer time delays of as much as 30 minutes. As a result of these reductions in service, the ability to utilize VRS for medical or other emergency purposes has been substantially reduced.

Because of the locations of many VRS providers, consumers in different parts of the country have had to adjust their daily schedule in order to utilize the benefits of VRS. For example, when VRS was available 24/7, a consumer in Hawaii wishing to contact someone on the east coast of the U.S. could call at a mutually convenient time for the two parties. Now, this person in Hawaii may need to get up in the middle of the night in order to utilize a VRS service. In addition, because of the reduced compensation rate, VRS providers are unable to hire and train new qualified interpreters to meet the highly specialized skill set required for VRS services.⁸ This shortage of interpreters has likewise lengthened call hold times and otherwise degraded the quality of VRS service to consumers. This level of service is no longer functionally equivalent; it is disruptive, discriminatory, and decreases rather than improves the quality of life of persons with hearing or speech disabilities.

VRS interpreters do not know in advance the kinds of calls they will receive or what specialized interpretation the caller may require (*e.g.*, highly technical or unique industries with specialized, technical terms).⁹ Ideally, VRS providers must not only retain highly-qualified

⁷ *Id.* at 3.

⁸ Sorenson Media, Inc. Petition for Reconsideration of *2003 Reimbursement Order*, at 3.

⁹ For example, it is unlikely that the average interpreter would be able to understand and interpret a detailed discussion of this very issue because of the unique, industry-specific technical terms involved. Therefore, a customer would have to specifically request an appropriately qualified interpreter. In contrast, *all* VRS interpreters must be able to understand and interpret, at least on a competent level, any type of call, including the example of a discussion of this very

interpreters who can respond to any type of call they may receive, but they must have a sufficient number of such highly-qualified interpreters to ensure that callers are not subjected to long hold times. Because it is costly to maintain a pool of highly-qualified interpreters during all hours of the day, the ability of VRS providers to make this service available has been substantially curtailed since the *2003 Reimbursement Order*.

Further, in order to maintain the on demand nature of VRS, VRS providers must use extensive networking configurations to ensure the accurate and reliable distribution of VRS calls to call centers located throughout the country.¹⁰ This technology is designed to assign incoming calls to the next available agent in an expeditious manner in order to answer each call in the shortest amount of time possible and reduce hold times. Similarly, VRS providers must have in place the technology necessary to enable compatibility with a wide variety of end user equipment, such as ISDN, IP, software applications, or unique hardware requirements.¹¹

C. An Appropriate Reimbursement Rate is Necessary to Restore On Demand 24/7 Service and Permit Future Improvements in Service.

TDI and the Supporting Parties request that the Commission set a reimbursement rate that provides sufficient compensation to VRS providers to enable them to restore on demand service 24 hours a day, seven days a week, hire and train qualified interpreters, as well as to provide funds for research and development so that VRS providers can continue to improve and enhance the services offered.

TDI and the Supporting Parties emphasizes that VRS provides a unique service to the TRS user community that is critical to their ability to communicate accurately and effectively

issue. Maintaining a sufficient number of such highly-qualified interpreters is significantly more costly than utilizing these professionals on an as-needed-basis.

¹⁰ CSD Letter at 2.

¹¹ *Id.*

with other members of society. As the Commission noted, VRS “make[s] relay services functionally equivalent to conventional telephone services for individuals whose first language is American Sign Language [ASL].”¹² Therefore, it is imperative that VRS be restored to the level of a viable service and that it be readily available to individuals with hearing or speech disabilities.

As discussed earlier, many VRS providers have reduced service availability in order to reduce their costs to a level consistent with the compensation rate set in the *2003 Reimbursement Order*. This reduction in service has, in turn, dramatically reduced the availability and usefulness of VRS and the significant opportunities and benefits it brings to individuals with speech or hearing disabilities. To make matters worse, NECA has also proposed that the 2004 compensation rate does not include any funding for research and development expenses.¹³ Without research and development funding, VRS as a service will stagnate. It will not keep up with advances in technology, and the users of VRS will be technologically left behind.

For these reasons, TDI and the Supporting Parties request that the Commission set a VRS reimbursement rate that is sufficient so that VRS providers can again make available the functionalities previously expected by VRS users with attention to quality services (via hiring and training of qualified interpreters), as well as research and development funding so that new products and services that provide even greater benefits and conveniences to consumers can be made available.

¹² *Telecommunications Relay Services and Speech-to-Speech Service for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 00-56, 15 FCC Rcd 5140, 5152, ¶ 23 (2000) (“*Improved TRS Order*”).

¹³ National Exchange Carrier Association, Inc., *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimates*, May 3, 2004, at 16.

III. CONCLUSION

Because of the substantial, unique benefits provided to the TRS user community by VRS, it is critically important that the Commission consider the effect on these individuals and their contacts when setting the VRS compensation rate. While at first glance, the determination of an appropriate rate may seem to be about cost estimates, depreciation allocation and profit margins, the true purpose behind those calculations is to ensure that a valuable segment of the population is not cut off from the benefits of a technology that will not only improve their quality of life, but will enable the rest of society, the business community, and the government to benefit from their contributions. Accordingly, TDI and the Supporting Parties urge the Commission to establish an appropriate rate that will provide for an opportunity to restore and enhance the viability of VRS.

Respectfully submitted,

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